

AMENDED IN ASSEMBLY FEBRUARY 27, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 88

Introduced by Assembly Members Corbett and Steinberg

January 7, 2003

An act to add Section 1670.6 to the Civil Code, relating to contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 88, as amended, Corbett. Contracts: *telemarketing*.

The federal Telemarketing Sales Rule prohibits a seller or telemarketer, as defined, from engaging in deceptive or abusive telemarketing acts or practices, including, but not limited to, (1) causing billing information to be submitted for payment, directly or indirectly, without the express informed consent of the customer or donor, as specified, and (2) keeping, for 24 months, certain authorizations or records.

Existing *state* law provides that certain contracts are unlawful.

This bill would provide that ~~contracts~~ *any contract with a consumer located in California that is made in connection with a telephone solicitation for the purchase of certain goods or services* ~~are~~ *is* unlawful if ~~a person has not expressly provided specified information for payment at the time of purchase~~ *the telemarketer fails to comply with the provisions of the Telemarketing Sales Rule described above.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1670.6 is added to the Civil Code, to
2 read:
3 1670.6. A contract *with a consumer located in California* for
4 the purchase of a ~~product~~ good or service that is ~~primarily for~~
5 ~~personal, family, or household use is unlawful if a person has not~~
6 ~~expressly provided, at the time of the purchase, authorization and~~
7 ~~information sufficient for payment.~~ *is made in connection with a*
8 *telephone solicitation made in or from outside of California and*
9 *is primarily for personal, family, or household use, is unlawful if*
10 *the telemarketer is in violation of Section 310.4(a)(6)(i) of, or has*
11 *not complied with Section 310.5(a)(5) of, the Federal Trade*
12 *Commission's Telemarketing Sales Rule (16 C.F.R. Part 310), as*
13 *published in the Federal Register, Volume 68, Number 19, on*
14 *January 29, 2003. This section shall apply only to those entities*
15 *and transactions subject to that Telemarketing Sales Rule.*

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